

Reviewed for conformance with Comm 90.10(a), Wisconsin Administrative Code.

Your Petition for Variance of code section(s) noted above has been reviewed.

The code section petitioned requires the fence around a pool enclosure to be at least 5 feet high and have no openings larger than 5 inches. This code section requires that all access to the pool be through the bathhouse and that any other gates are locked.

The variance requested is to allow the existing fence, which is 4' 3" to 4' 5" high and with open gates, to remain.

The intent of the code section petitioned is to prevent unauthorized use of the pool, prevent children from using the pool without proper supervision, and to route patrons through the bathhouse so that patrons are more likely to take showers prior to entering the pool.

The petitioner submitted an application form including additional page(s) of supporting documents and/or plans.

Reviewer's Comments:

1. The petitioner refers to gates that patrons will use instead of climbing over the fence. The gates are not allowed to be an access to the pool and must be used only for maintenance purposes and locked.
2. The petitioner refers to this facility as being part of a "gated community". Although there is a gate there is not a fence around the community that will meet the requirements of this code section.
3. Being a gated community does not protect the pool or the public that is inside the gate.
4. It is the reviewer's opinion that it is impossible for the existing condition to be deemed equivalent to the code requirements.

Departmental Action: **DENIAL**

This decision will become final unless the department, within 30 days from the date of this letter, receives a written request for a hearing. A request for hearing should be sent to the address shown on this letterhead. A copy of this letter must be included with the request for a hearing. The request for hearing should state the reasons for objecting to the department's decision, because a request for hearing may be denied if it does not present a significant question in fact, law or policy.

A written hearing request should be made to the Department and should state the reasons for the appeal of a Department decision. A hearing request may be denied if the stated reasons do not present a significant question of fact, law or policy. Also refer to the Wisconsin Administrative Code under which this decision was made for more details.

All of the data and statements submitted were considered.